S.B.Criminal Misc. Petition No. 546/2000
(Elcon Finlease & Industries Ltd. Vs. State of Rajasthan & Ors.)

Date of order : 05.07.2006

HON'BLE MR.H.R.PANWAR,J.

None present for the petitioner.
Mr. Ashok Upadhyay, public prosecutor.
Mr. M.K.Garg for the non-petitioners No.2 and 3.

No one appears for the petitioner despite repeated calls.

This criminal misc. petition under Section 482 Cr.P.C., is directed against the order dated 30.6.2000 passed by Additional Chief judicial Magistrate No.2, Bikaner (for short 'the trial court' hereinafter) in Crime Report No.112/2000 Police Station, Jainarayan Vyas Colony, Bikaner, whereby the trial court gave the custody of the jeep on Supardginama in favour of non-petitioner No.3 Pratap Singh on the terms and conditions mentioned in the order. Aggrieved by the order impugned, the petitioner has filed the instant criminal misc. petition.

I have heard learned public prosecutor for the State and the counsel appearing for the non-petitioners No.2 and 3. Perused the order impugned as also material placed on record.

From the perusal of the order impugned, it is clear that the jeep in question bearing No. RJ-19-C-5122 was financed by the petitioner to non-petitioner No.2 Jai Ganesh and according to the loan agreement a sum of Rs.2,14,000/- was to be paid by non-petitioner No.2 in 24 monthly installments. From the order of the trial court it appears that the non-petitioner No.2 paid a sum of Rs. 2,50,565/-. Apart from this amount, a sum of Rs.5615/-, Rs.6242 and Rs.3500/- was also paid and according to learned counsel for the non-petitioner in all a total sum of Rs.2,75,000/- were paid as against the loan amount and interest thereon as also the non-petitioner was prepared to pay the remaining amount. The jeep in question is registered in the name of non-petitioner No.2 and non-petitioner No.3 is the power of attorney holder of non-petitioner No.2. From the perusal of the order impugned, it also appears that the employees of the petitioner company committed the offence of dacoity and unlawful assembly and therefore, a crime report No.112/2000 Police Station, Jainarayan Vyas Colony, Bikaner for the offences under Section 395, 147 IPC was registered against the employees of the petitioner company. The jeep in question is subject matter of crime noticed above. The trial court found that the non-petitioner No.2 was in lawful possession of the jeep in question and the employees of the petitioner company

committed a dacoity by forcibly taking away the jeep from the non-petitioner. The jeep in question stands registered in the name of non-petitioner No.2 and accordingly, the trial court by the order impugned, gave interim custody of the jeep to non-petitioners No. 2 and 3.

On close scrutiny of the order impugned, in my view, the trial court was justified in releasing the jeep in favour of non-petitioners No.2 and 3. A substantial amount i.e. much more than the original amount financed by the petitioner admittedly had been paid to the petitioner by the non-petitioners. Moreso, it is not the case of the petitioner of repossessing the vehicle but it is a case of committing a crime of dacoity against the employees of the petitioner firm. In the circumstances therefore, it cannot be said that the order impugned would result in manifest injustice or abuse of process of any Court.

The criminal misc. petition is devoid of any merit and is accordingly dismissed.

(H.R.PANWAR), J.

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